IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.W.P.NO.365 OF 2006

1. Anil Murlidhar Deshmukh
2. Ramesh Madhavrao Pawar ..Petitioners

Vs.

The State of Maharashtra & Anr. ..Respondents

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Mr.Samir A.Vaidya advocate for Petitioners
Mrs.A.S.Pai A.P.P. for State
Mr.P.D.Gharat Spl.P.P. for C.B.I.

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CORAM: D.G.DESHPANDE AND SMT.V.K.TAHILRAMANI,JJ.

DATE : APRIL 17,2006

P.C.:

1. Heard the learned advocate for Petitioners and learned A.P.P. for the State.

2. Two petitioners who are accused Nos.6 and 7 respectively in Special Case No.6 of 2004 on the file of Special Judge, M.C.O.C. Pune, have filed this petition. This is one of the cases which are generally referred to be the "Telgi Scam Cases". The petition is for *habeas corpus* and the ground raised therein is that petitioners were on remand

in the aforesaid case. Remand was extended upto 6.2.2006. On 6.2.2006, the petitioners were not physically produced before the Court and there was no order of extension of remand and therefore, their detention is illegal. During the arguments, however, the counsel for the Petitioners when faced with strong adverse circumstances, conceded that this petition be heard only in respect of petitioner No.1 Anil Murlidhar Deshmukh and he prays for liberty to file separate petition in respect of petitioner No.2-Ramesh Madhavrao Pawar. Therefore, we have to only consider the case of petitioner No.1 Anil Murlidhar Deshmukh that he was not physically produced before the Court on 6.2.2006. In affidavit-in-reply filed by Respondent No.2 i.e. Central Bureau of Investigation, an order of the Special Judge under M.C.O.C. before whom the remand matter is pending, has been reproduced which shows that on 28.1.2006 petitioner No.1 Anil Murlidhar Deshmukh filed an application before the Court for giving him permission to visit his residence for four days in order to enable him to perform last rites of his mother who had expired. That application was kept for hearing on 30.1.2006 and thereafter adjourned

to 4.2.2006. On 4.2.2006, Respondent-Central Bureau of Investigation, did not oppose the said application on humanitarian grounds i.e. to enable the petitioner No.1 to perform last rites of his mother. The Court, therefore, passed an order after taking into consideration invitation card annexed to the said application, according to which, 10th day of last rites of mother of petitioner no.1, were to be performed on 6.2.2006, 7.2.2006 and 9.2.2006.

3. Therefore, considering this prayer and considering no objection given by C.B.I., the remand Court on humanitarian grounds, granted the said prayer and directed that accused-petitioner no.1 Anil Murlidhar Deshmukh be taken to his house under proper escort for attending last rites of his mother from 6.2.2006 to 9.2.2006.

4. Firstly, the petitioner No.1 has suppressed this material fact from the Court as there is no mention of anything in respect thereof in his petition. Secondly, when we confronted the advocate for petitioner no.1 as to how the petitioner no.1 could have been produced before the

remand Court physically on 6.2.2006 because of the aforesaid order dated 4.2.2006, the petitioner's advocate had no answer.

5. Therefore, for two reasons, firstly, for suppression of material facts from the Court and secondly because of the order of the Court dated 4.2.2006 on humanitarian grounds, this petition is totally frivolous, bogus and it has no substance. In fact, the petitioner no.1 is a police officer and he was expected to disclose all the material facts particularly the fact that on 6.2.2006 he could not be produced before the Court because of the order was passed in his favour by the Court on humanitarian ground. For the aforesaid reasons, we summarily dismiss this petition with costs of Rs.5000/- upon the petitioner no.1.

6. Liberty is granted to petitioner No.2-Ramesh Madhavrao Pawar to file separate petition.

[D.G.DESHPANDE, J.]

[SMT.V.K.TAHILRAMANI,J.]